

FISCAL NOTE

HB 140 - SB 185

February 20, 2007

SUMMARY OF BILL: Increases the classification and length of sentences for various offenses relating to carrying a firearm with the intent to go armed. Requires certain sentences to be served at 100 percent with no pre-trial diversion, no judicial diversion, and no sentence reduction credits. Eliminates the current Class A misdemeanor offense of carrying a handgun at a place open to the public where one or more persons is present.

ESTIMATED FISCAL IMPACT:

Increase State Expenditures – Net Impact - \$41,611,300/ Incarceration*

Assumptions:

- According to the U.S. Census Bureau, population growth in Tennessee has been 1.09 percent per year for the past 10 years.
- According to the Department of Correction (DOC), the average operating cost per inmate per day for calendar year 2007 is \$60.16.
- There were 650 misdemeanor convictions for unlawful possession of a weapon in 2005. DOC estimates that 50% of the 650 (325) misdemeanors would be for illegal possession of a firearm.
- Five percent (16) of the 325 misdemeanor offenses would be third or subsequent offenses and would be elevated to Class E felony offenses and would be required to serve a minimum of 150 days. Sixteen persons will be convicted of these Class E felony offenses in the first year. Population growth of 1.09 percent per year will result in two additional offenders charged with this Class E felony offense in the tenth year as a result of this bill. The maximum cost in the tenth year, as required by Tenn. Code Ann. § 9-4-210, is based on 18 offenders serving 150 days. The cost per inmate is \$9,024 (\$60.16 x 150 days). The total additional operating cost for 18 offenders is \$162,432 (\$9,024 x 18).
- According to DOC, there were 74 admissions for possession of a weapon by a convicted felon as the primary offense in 2006. Ninety percent (67) would be convicted of Class E felony offenses and would serve one year (an increase from 0.3 years to one year). Ten percent (7) would be convicted of Class D felony offenses and would serve two years (an increase from 0.3 years to 2 years).

- Sixty-seven persons will be convicted of a Class E felony offense in the first year and by the tenth year, due to population growth, there will be eight additional offenders. The maximum cost in the tenth year is based on 75 offenders serving an additional 0.7 years (255.68 days). The cost per inmate is \$15,381.71 (\$60.16 x 255.68 days). The total additional operating cost for 75 offenders is \$1,153,628.25 (\$15,381.71 x 75). Seven persons will be convicted of a Class D felony offense in the first year and by the tenth year, due to population growth, there will be one additional offender. The maximum cost in the tenth year is based on eight offenders serving an additional 1.7 years (620.93 days). The cost per inmate is \$37,355.15 (\$60.16 x 620.93 days). The total additional operating cost for eight offenders is \$298,841.20 (\$37,355.15 x 8).
- According to DOC, 2.86% of the inmate population in FY05 had possession of weapon-convicted felon as a secondary offense. Annual admissions for FY06 were 13,892 and two percent (278) were convicted of this offense. Ninety percent (250) will be convicted of a Class E felony offense in the first year and by the tenth year, due to population growth, there will be 29 additional offenders. The maximum cost in the tenth year is based on 279 offenders serving one year (365.25 days). The cost per inmate is \$21,973.44 (\$60.16 x 279). The total additional operating cost for 279 offenders is \$6,130,589.76 (\$21,973.44 x 279). Ten percent (28) will be convicted of Class D felony offenses in the first year and by the tenth year, due to population growth, there will be three additional offenders. The maximum cost in the tenth year is based on 31 offenders serving two years (730.50 days). The cost per inmate is \$43,946.88 (\$60.16 x 730.50 days). The total additional operating cost for 31 offenders is \$1,362,353.28 (\$43,946.88 x 31).
- Ten percent of the 325 (33) firearm misdemeanor convictions would have been committed by a convicted felon and would have been a misdemeanor and a secondary offense. Thirty-three persons will be convicted in the first year and by the tenth year, due to population growth, there will be four additional offenders. The maximum cost in the tenth year is based on 37 offenders serving one year (365.25 days). The cost per inmate is \$21,973.44 (\$60.15 x 365.25 days). The total additional operating cost for 37 offenders is \$813,017.28 (\$21,973.44 x 37).
- 148 inmates were convicted of Class C felony offenses for reckless endangerment with a deadly weapon as a primary offense. Fifty percent (74) of those would involve firearms. Seventy-four persons will be convicted of a Class C felony offense in the first year and by the tenth year, due to population growth, there will be eight additional offenders. The maximum cost in the tenth year is based on 82 offenders serving an additional 2.7 years (an increase from 0.3 years to 3.0 years). The cost per inmate is \$59,328.59 (\$60.16 x 986.18 days). The total additional operating cost for 82 offenders is \$4,864,944.38 (\$59,328.59 x 82).

- Sixty-seven inmates were convicted of armed robbery with a deadly weapon as the primary offense. DOC estimates that 50% (34) of these would involve firearms. Thirty-four offenders would be convicted of a Class C felony offense in the first year and by the tenth year, due to population growth, there will be four additional offenders serving 1.5 years (a decrease from 2.4 years for a Class B felony to 0.9 years for a Class C felony). The maximum cost in the tenth year is based on 38 offenders serving 1.5 years (547.88 days). The cost per inmate is \$32,960.46 ($\60.16×547.88 days). The decrease in operating cost for 38 offenders is \$1,252,497.48 ($\$32,960.46 \times 38$).
- Thirty-four persons will be convicted of a Class C felony offense for simple robbery in the first year and by the tenth year, due to population growth, there will be four additional offenders serving a consecutive sentence of three years (1,095.75 days). The maximum cost in the tenth year is based on 38 offenders serving three years. The cost per inmate is \$65,920.32 ($\$60.16 \times 1,095.75$ days). The total additional operating cost for 38 offenders is \$2,504,972.16 ($\$65,920.32 \times 38$).
- Seventy-one inmates were convicted of voluntary manslaughter as the primary offense. DOC estimates that 18 of those offenses involved the use of a firearm. Eighteen persons will be convicted of a Class C felony offense of voluntary manslaughter involving a firearm in the first year and by the tenth year, due to population growth, there will be two additional offenders serving three years (1,095.75 days). The maximum cost in the tenth year is based on 20 offenders serving three years. The cost per inmate is \$65,920.32 ($\$60.16 \times 1,095.75$ days). The total additional operating cost for 20 offenders is \$1,318,406.40 ($\$65,920.32 \times 20$).
- 964 inmates were convicted of aggravated assault. DOC estimates that 25% (241) involved a weapon and 50% (121) of those offenses involved a firearm. 121 persons will be convicted of a Class C felony offense in the first year and by the tenth year, due to population growth, an additional 14 persons will be convicted of this offense. The maximum cost in the tenth year is based on 135 offenders serving an additional 2.1 years (an increase from 0.9 years to 3.0 years). The cost per inmate is \$46,911.55 ($\60.16×767.03 days). The total additional operating cost for 135 offenders is \$6,333,059.25 ($\$46,911.55 \times 135$).
- 162 inmates were convicted of reckless aggravated assault offenses. DOC estimates that 50% (81) involved a weapon and 50% (41) of those offenses involved a firearm. Forty-one persons would be convicted of a Class C felony offense of use of a firearm during a crime in the first year and by the tenth year, due to population growth, an additional five persons would be charged with this offense. The maximum cost in the tenth year is based on 46 offenders serving an additional 2.4 years (an increase from 0.6 years for a Class D to elevated to 3.0 years for a Class C felony). The cost per inmate is \$52,736.26 ($\60.16×876.60 days).

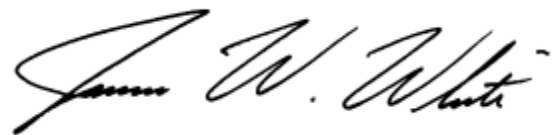
The total additional operating cost for 46 offenders is \$2,425,867.96 (\$52,736.26 x 46).

- Sixty-two inmates were convicted of the Class D felony of evading arrest/risk of death offenses. DOC estimates that 25% (16) involved a firearm. Sixteen persons will be convicted of this offense, elevated to the Class C felony of use of a firearm during a crime in the first year and by the tenth year, due to population growth, two additional persons would be convicted of this offense. The maximum cost in the tenth year is based on 18 offenders serving an additional 2.4 years (an increase from 0.6 years to 3.0 years). The cost per inmate is \$52,736.26 (\$60.16 x 876.60 days). The total additional operating cost for 18 offenders is \$949,252.68 (\$52,736.26 x 18).
- In FY05, 3.5 percent of the population has possession of weapons as a secondary offense. DOC estimates that 3.5% of the total admissions for FY06 (486) would have to serve this sentence consecutively to another sentence imposed in the first year and by the tenth year, due to population growth, the number of offenders would increase by 56, for a total of 542 offenders. Eleven percent (60) of those 542 offenders would be convicted of a Class C felony and would serve 3.0 years (1,095.75 days). The maximum cost in the tenth year is based on 60 offenders serving 3.0 years. The cost per inmate is \$65,920.32 (\$60.16 x 1,095.75 days). The total additional operating cost for 60 offenders is \$3,955,219.20 (\$65,920.32 x 60). The remaining 89% (482) would be convicted of Class E felony offenses and would serve an additional year. The cost per inmate is \$21,973.44 (\$60.16 x 365.25 days). The total additional operating cost for 482 offenders is \$10,591,198.08 (\$21,973.44 x 482).

**Tennessee Code Annotated, Section 9-4-210, requires that: For any law enacted after July 1, 1986, which results in a net increase in periods of imprisonment in state facilities, there shall be appropriated from recurring revenues the estimated operating cost of such law. The amount appropriated from recurring revenues shall be based upon the highest cost of the next 10 years.*

CERTIFICATION:

This is to duly certify that the information contained herein is true and correct to the best of my knowledge.



James W. White, Executive Director